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EXTRAORDINARY

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PART II—Section 2

प्राधिकार से प्रकाशित

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Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 29th August, 1974:—

BILL No. XXXVII OF 1974

A Bill further to amend the Punjab Municipal Act, 1911, as in force in the Union territory of Chandigarh.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the Punjab Municipal (Chandigarh Amendment) Act, 1974.

Short title.

Punjab Act III of 1911, Punjab Act XXVII of 1952.

2. In section 188 of the Punjab Municipal Act, 1911, as applied to the Union territory of Chandigarh under section 7A of the Capital of Punjab (Development and Regulation) Act, 1952 (hereinafter referred to as the Punjab Municipal Act), for clause (t), the following clauses shall be substituted, namely:—

Amendment of section 188.

“(t) render licences necessary for handcarts employed for transport or for hawking articles for sale and for persons using such handcarts,

(ta) specify the trade or trades for which handcarts may not be used,

(tb) specify the designs for handcarts used for any trade and different designs may be specified for handcarts used for different trades,

(tc) specify the maximum number of licences that may be issued for the use of handcarts for any trade or trades,

(td) impose restrictions as to the times during which handcarts may be used for carrying on any trade and the area of operation of such trade and also for the parking places for the handcarts,

(te) prescribe the fees payable for the issue of such licences and the conditions for the grant, renewal or revocation of such licences:

Provided that—

(i) no trade shall be specified under clause (ta) as a trade for which handcarts may not be used, unless the use of handcarts for carrying on such trade is likely to be harmful to the health, hygiene or sanitation of the general public or is otherwise against the interests of the general public;

(ii) in making bye-laws under clause (tc) or clause (td), regard shall be had to the volume of traffic, the nature of the roads and the space available for parking, the problems of sanitation and other relevant factors.”.

Amend-
ment of
section
199.

3. In section 199 of the Punjab Municipal Act,—

(a) in sub-section (1)—

(i) for the words “fifty rupees”, the words “two hundred rupees” shall be substituted;

(ii) for the words “five rupees”, the words “twenty rupees” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Such bye-laws may also provide that if any person, convicted for the breach, or abetment of breach, of any bye-law made under clause (t) of section 188, is convicted and it is proved that such person was convicted of a like offence on not less than two previous occasions, then, the court, before which the third or subsequent conviction takes place, may order the confiscation of the handcart employed for transport or hawking articles for sale, as the case may be, in contravention of the provisions of any bye-law made under the said clause (t).”.

STATEMENT OF OBJECTS AND REASONS

The Chandigarh Hand-Cart (Control and Regulation) Bye-laws, 1967, which was framed under the provisions of the Punjab Municipal Act, 1911, as in force in the Union territory of Chandigarh, was struck down by the High Court of Punjab and Haryana on the ground that they had been framed in excess of the legislative powers conferred under the provisions of the above Act

2. Clause (t) of section 188 of the Punjab Municipal Act, 1911, lays down that bye-laws may be framed rendering licences necessary for handcarts and persons using such handcarts and prescribing the conditions for the grant and revocation of such licences. To deal with the problem of handcarts in the Union territory of Chandigarh, it is considered necessary that the Chief Administrator should have the power to frame bye-laws prescribing the trades which shall not be permitted in the interest of health, hygiene and sanitation of the general public, fixing the maximum number of licences to be issued from time to time, specifying the timings, area of operation and organised parking places for such handcarts and specifying approved design for such carts.

3. The provisions of the Punjab Municipal Act in its application to the Union territory of Chandigarh have been found to be inadequate to deal with the problem effectively. Necessary bye-laws can be framed only if there is necessary legislative power for the same under sections 188 and 199 of the said Act. The Bill therefore seeks to amend the said sections with a view to empowering the Chief Administrator to frame necessary bye-laws to regulate the use of handcarts in the Union territory of Chandigarh.

NEW DELHI;

The 17th August, 1974.

BHOLA PASWAN SHASTRI.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to substitute clause (t) of section 188 of the Punjab Municipal Act, 1911, as applied to the Union territory of Chandigarh, with a view to empowering the Chief Administrator to frame bye-laws rendering necessary licences for handcarts, prescribing the fees payable for the issue of such licences, specifying the trades which shall not be permitted in the interest of the health, hygiene and sanitation of the general public, fixing the maximum number of licences to be issued from time to time, specifying the timings, area of operation and organised parking places for such handcarts and specifying approved designs for such handcarts.

2. The matters with regard to which the Chief Administrator is proposed to be empowered to make bye-laws are matters of detail and it is hardly possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.